

REMARKS

Claims 1-14 are pending in connection with the above-identified application. The abstract has been amended to reduce its length to less than 150 words. No new matter has been added.

Specification

The abstract was objected to because it is too long. The abstract has been amended to overcome this issue. Accordingly, Applicants respectfully request that the objection be removed.

Issues under 35 U.S.C. § 102(b)

Claims 1, 6, and 9 were rejected under 35 U.S.C. § 102(b) as being anticipated by Hara et al. (Hara et al., Flower Induction in Asparagus Seedlings by Anilide and Benzamide Derivatives, *J. Agric. Food Chem.*, 40, 1992, pages 1692-1694). Applicants respectfully traverse based on the following reasons.

Hara et al. describe flower induction in asparagus seedlings by anilide compounds. In stark contrast to the compounds of formula I of the present invention, the anilide compounds of Hara et al. do not carry a phenyl ring as a substituent on the anilide moiety or, more specifically, a substituted phenyl ring which is located in the 2-position of the anilide moiety. Consequently, Hara et al. fail to anticipate any of the present claims such that the above-noted anticipation rejection based on this reference must be withdrawn.

Issues under 35 U.S.C. § 103(a)

1) Claims 1-11 and 14 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Eicken et al. '745 (US 6,143,745).

2) Claims 12-13 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Eicken et al. '745 in view of Asrar et al. '371 (US 2003/0060371).

Eicken et al. '745 describe carboxanilide compounds and their use for controlling harmful fungi. However, a growth regulating action is not described. The Examiner asserts that one of ordinary skill in the art would assume that plants in need of treatment against fungi are in need of growth promotion since the plants would be destroyed if the plants are not treated against the harmful fungi.

However, the compounds of formula I are not limited to a pesticidal action for exerting a growth regulating effect. Rather, the compounds of formula I incite or promote plant responses which are completely different from Eicken et al. '745. The present specification states that the growth regulation process means "a variety of plant responses which attempt to improve some characteristic of the plant as distinguished from pesticidal action" (page 1, lines 8-14; emphasis added). The present specification also states that the compounds of formula I may also be applied to the soil, wherefrom they are root-absorbed and result in plant responses which correspond to growth regulation (page 14, lines 37-41). Furthermore, Example 1 proves that the growth regulating effect was achieved, as compared to untreated onion plants, although no fungal diseases were present (page 15, lines 4-13).

Applicants have defined growth promotion in a specific way which distinguishes the method of the present invention from pesticidal action. MPEP 2111.01(IV) states, "Where an explicit definition is provided by the applicant for a term, that definition will control interpretation of the term as it is used in the claims." As such, Eicken et al. '745 do not teach the growth regulating action of the compounds of formula I of the present invention.

As Eicken et al. '745 fail to teach the growth regulating action of the compounds of formula I of the present invention, the reference does not teach each and every aspect of the pending claims. Regarding the second rejection under 35 USC 103, Applicants respectfully submit that Asrar et al. '371 do not overcome the deficiencies of this reference.

To establish a *prima facie* case of obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. (See MPEP 2143.03). As discussed above, the references fail to teach or suggest all the claim limitations of the pending claims. The rationale to modify Eicken et al. '745 or to combine this reference with Asrar et al. '371 is also lacking and/or improper for the reasons stated above. Therefore, a *prima facie* case of obviousness has not been established, and withdrawal of the instant rejections is respectfully requested.

In view of the above amendment, Applicants believe the pending application is in condition for allowance.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Chad M. Rink, Reg. No. 58,258 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.147; particularly, extension of time fees.

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Respectfully submitted,

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